

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NOS.2002, 2003, 2004
and 2005 all OF 2004

Divakar Jayram Shetty ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

.....

Mr.P.N.Patil for Petitioner in all the matters.

Mr.S.R.Shinde, A.P.P. for Respondent No.1

in all the matters.

.....

CORAM: A.M.KHANWILKAR, J.

DECEMBER 21, 2004.

P.C.

1. Heard Mr.Patil for Petitioner and Mr.Shinde, A.P.P. for Respondent No.1. None appears for Respondent No.2. Affidavit of service has been filed, which mentions that notice sent to Respondent No.2 has been refused. That is good service. In the circumstances, the matter will have to proceed in terms of order dated 14th October 2004.

2. The limited question that arises in the present Petitions is: whether the complaint as filed makes out any case against the Petitioner? The allegation in the complaint is that the Petitioner/accused No.2 along with accused Nos.1 and 3 started Approach Multi Trade Pvt.Ltd. and they were conducting business on behalf of the said Company. It is not in dispute as is seen from the complaint that accused No.1 is the signatory to the cheque in question. In other words, Petitioner is not the signatory to the cheque. There is no allegation in the complaint so as to indicate the complicity of the Petitioner as is required by Section 141 of the Negotiable Instruments Act. Recently, I had occasion to deal with this aspect in **Criminal Writ Petition No.2241 of 2004 - Madanlal Taparia & Anr. vs. The Bank of Rajasthan Ltd. & Anr. decided on 14th December 2004.**

3. Accordingly the Petitions succeed in terms of prayer clause (a). The complaint in question is quashed, insofar as Petitioner/accused No.2 is concerned.

A.M.KHANWILKAR, J.